

REPUBLIC OF KIRIBATI

(No. 4 of 2017)



I assent,

Beretitenti

11/10/ 2017

AN ACT
entitled

**AN ACT TO PROVIDE FOR AND REGULATE EARLY CHILDHOOD CARE AND
EDUCATION SERVICES IN KIRIBATI; AND FOR CONNECTED PURPOSES.**

Commencement 2017

MADE by the Maneaba ni Maungatabu and assented by the Beretitenti

PART 1—PRELIMINARY

1. Short title

This Act may be cited as the Early Childhood Care and Education Act 2017

2. Purpose

The purposes of this Act are-

- (1) to provide a framework for the regulation of the provision and operation of early childhood care and education to children from 3 years old to under 6 years old;
- (2) to establish a registration and compliance mechanism relating to the provision of early childhood care and education services;
- (3) to set out requirements for the provision and operation of early childhood care and education services;
- (4) to facilitate and support the early childhood care and education programs and services implemented at the national and local government levels.

3. Definitions

In this Act, unless the context otherwise requires—

“approved ECCE service” means an early childhood care and education service that is approved to provide day care and preschool service to a child;

“approved premise” means a place other than a hospital or residence at which an ECCE or preschool service operates or is to operate, an office of the service or each part of the place used or accessed for the provision of the service;

“approved preschool service” means a preschool that is approved to provide early childhood education to a child;

“approved provider” means a provider who holds an approval to provide ECCE or preschool service to a child;

“approved teacher” means a teacher who holds an approval to provide preschool service only or as part of an ECCE service to a child;

“associated equipment and infrastructure” means any tool, vehicle and infrastructure used whether as part of the daily operation of the service or used on occasion only, by an ECCE or preschool provider;

“certificate” means a certificate issued under section 16;

“child” means a person who has attained 3 years old but is under 6 years old;

“child-minder” means a person or a principal provider and any person who is engaged or employed by a principal provider, to provide day care service as part of an ECCE service;

“clearance documents” includes a police clearance, medical clearance, any letter or statement from a church leader, community leader, member of parliament or island councilor, proving a person as a fit and proper person with good standing in the church, community or village, and any other documents prescribed as a clearance document;

“compliance notice” means a compliance notice stating any condition and requirement prescribed or issued as the Director thinks fit, for an ECCE or preschool provider to comply with;

“corporal punishment” means a physical punishment inflicted on a child’s body by smacking, canning, beating or any other action that will cause physical pain or discomfort to a child;

“court” means the Magistrates’ Court or the High Court as applicable and where the circumstances may fit;

“Director” means the Director of a Ministry responsible for early childhood care and education;

“ECCE” means Early Childhood Care and Education;

“ECCE inspector” means a person of the Ministry appointed as an ECCE inspector under section 54;

“family” in relation to a child, means –

(i) a parent, grandparent, step-parent, brother, sister, uncle, aunt or cousin of the child, whether by birth or adoption;

(ii) the primary care-giver of the child;

(iii) any other person with whom the child has developed a psychological or emotional attachment, which significantly resembles a family relationship;

“Minister” means the Minister of a Ministry responsible for early childhood care and education;

“Ministry” means a Ministry responsible for early childhood care and education;

“parent” means-

(i) the father of the child, whether by birth or adoption;

(ii) the mother of the child, whether by birth or adoption;

(iii) a guardian or person to whom custody of a child has been granted by a court or by an agreement;

(iv) a caregiver who acts or carries out responsibilities of a father or mother;

“prescribed” means prescribed by Regulation made by the Minister under section 63;

“principal provider” means a principal provider of a body corporate ECCE or preschool service;

“register” means a register stated under section 17;

“residence” means the habitable areas of a dwelling;

“review panel” means a review panel set up under section 37;

“schedule” means a schedule under this Act specifying the minimum standard qualification for preschool teachers and the minimum standard requirements for premises and associated equipment and infrastructure, as the Minister may by order, from time to time amends;

“Secretary” means the Secretary of a Ministry responsible for early childhood care and education;

“staff member” in relation to a body corporate ECCE or preschool service, means a person, other than a child-minder and preschool teacher, engaged or employed to work in or as part of an ECCE or preschool service;

“teacher” means a person or a principal provider and any person who is engaged or employed by a principal provider, to provide preschool service in a preschool or as part of an ECCE service.

4. Objects and guiding principles

(1) Any function under this Act must be exercised having regards to the objects and guiding principles of early childhood care and education services.

(2) The objects of this Act are to –

(a) ensure the safety, health and wellbeing of children;

(b) improve the educational and developmental outcomes for children;

- (c) promote the physical, social and emotional needs of children;
- (d) respect children's identity, dignity and stimulates their curiosity;
- (e) promote quality and continuous improvement in the provision of early childhood care and education services for the benefit of children; and
- (f) improve knowledge and access to information about early childhood care and education services.

(3) The guiding principles of this Act are –

- (a) that the rights and best interests of a child are paramount;
- (b) that children are successful, competent and capable learners;
- (c) that any early childhood care and education services are delivered free from discrimination on the basis of religion, race, gender, color or disability of a child;
- (d) that the role of parents and families in respect of education and care, are respected and supported;
- (e) that quality service and best practice is expected in the provision of early childhood education and care services.

PART II- PROCEDURES

Division 1 – APPLICATION

5. ECCE Service

Any ECCE service provider must apply to the Director for approval to provide and operate, ECCE services to a child.

6. The application must be in the prescribed form and include the prescribed fee.

7. Individual and body corporate ECCE service provider

(1) For an individual ECCE service provider, the application form must include-

- (a) clearance documents,
- (b) proof of the qualification of a teacher providing the preschool part of the service in accordance with the minimum standard qualification under the schedule of this Act, and
- (c) any other information, prescribed or issued as the Director thinks fit.

(2) For a body corporate ECCE service provider, a principal ECCE provider must submit the application form and –

- (a) discloses the names of any child-minder, teacher and staff involved.
- (b) proof of the qualification of each teacher providing the preschool part of the service in accordance with the minimum standard qualification under the schedule of this Act.

- (c) includes clearance documents for each child-minder, teacher and staff involved, and
- (d) includes any other information, prescribed or issued as the Director thinks fit.

8. Preschool Service

Any preschool service provider must apply to the Director for approval to provide and operate, preschool services to a child.

9. The application must be in the prescribed form and include the prescribed fee.

10. Individual and body corporate preschool service provider

(1) For an individual preschool service provider, the application form must include-

- (a) clearance documents,
- (b) proof of the qualification of the teacher or preschool service provider, in accordance with the minimum standard qualification under the schedule of this Act,
- (c) any other information, prescribed or issued as the Director thinks fit.

(2) For a body corporate preschool service provider, a head teacher who is a principal preschool provider, must submit the application form and –

- (a) discloses the names of any teacher and staff involved,
- (b) includes clearance documents for each teacher and staff involved,
- (c) proof of the qualification of each teacher in accordance with the minimum standard qualification under the schedule of this Act,
- (d) includes any other information, prescribed or issued as the Director thinks fit.

11. Premises.

(1) Any application for approval under sections 5 and 8, must include an application for approval of a premise or premises from which the service operates or is to operate.

(2) An application for approval of premises must be in a prescribed form and discloses -

- (a) the location or address of the premise,
- (b) the description of the premise,
- (c) the status of ownership of the premise,
- (d) proof of the standard of the premise in accordance with the minimum standard requirement under the schedule of this Act, and
- (e) any other information prescribed or issued as the Director thinks fit.

12. Associated Equipment and Infrastructure.

- (1) Any associated equipment and infrastructure that is or will be part of the daily operation of an ECCE or preschool service, must be disclosed in the application made under section 11, and
- (2) any other associated equipment and infrastructure must be disclosed to the Director within a reasonable time prior to an occasion when the approved provider requires the use of such equipment or infrastructure for that occasion, as part of an ECCE or preschool service.
- (3) The disclosure under subsections (1) and (2) of this section must be provided with proof of the standard of the equipment and infrastructure in accordance with the minimum standard requirements under the schedule of this Act.

Division 2 – APPROVAL

13. Approved Application

The Director may grant approval to any application under Division 1, if satisfied that-

- (1) in the case of providers, an applicant –

- (a) complies with the prescribed formalities,

- (b) who is an individual provider, complies with all the minimum qualifications under the schedule and any other requirements prescribed or issued as the Director thinks fit, or

- (c) who is a principal provider and any child-minder, teacher and staff involved, complies with the minimum qualifications under the schedule and any other requirements prescribed or issued as the Director thinks fit,

- (2) in the case of premises, an applicant–

- (a) complies with the prescribed formalities,

- (b) complies with the minimum standard requirements,

- (c) provides the information and requirement prescribed or issued as the Director thinks fit.

- (3) Subject to section 14, the decision for approval must be issued within 30 working days or any other reasonable period required for the process and completion of the decision, to an applicant concerned.

14. Conditional approval

- (1) The Director may grant an approval subject to conditions which an applicant must comply with, prior to the operation of the service.

- (2) Where an approval is granted under subsection (1), the Director must issue a compliance notice if satisfied that-

- (a) the proposed service needs to meet the minimum standard qualification under the schedule or any other prescribed requirements,

(b) the proposed premise needs to meet the minimum standard requirements under the schedule or any other standards prescribed or issued as the Director thinks fit,

(c) the proposed associated equipment and infrastructure that is or will be part of the daily operation of the service, needs to meet the minimum standard requirements under the schedule or any other standard prescribed or issued as the Director thinks fit.

(3) An applicant is permitted a compliance period of 30 working days for services in South Tarawa or 60 working days for any other applicants, or any other permitted period granted by the Director otherwise the applicant will be refused under section 22.

(4) The Director may grant an approval if satisfied that the applicant has complied with the compliance notice issued under subsection (2).

15. Offences

(1) Any service provider who operates an ECCE or preschool service without an approval, commits an offence and shall be liable to a fine not exceeding \$5000 or to imprisonment for a period not exceeding 12 months, or both.

(2) Any service provider, whether approved or not, who provides and operates an ECCE or preschool service at a premise that is not an approved premise, commits an offence and shall be liable to a fine not exceeding \$2000 or to imprisonment for a period not exceeding 6 months, or both.

16. Certificate of approval

(1) The approvals given under sections 13 or 14 for providers and premises, must be issued in a single certificate, in the prescribed form, and

(2) the approved provider must display such certificate for viewing at the approved premises.

(3) A duplicate of the certificate may be issued upon payment of a prescribed fee where the Director is satisfied that the original was lost or damaged, except where the issued certificate is amended by regulation during the validity period of the approval in which case, a new certificate must be issued to the approved provider without any fee.

17. A register of certificate

A register of certificates for approved providers and approved premises must be kept at the Ministry.

18. Transfer of approval

Any approval whether for a service provider or premise, is not transferrable to any other provider or premise.

19. Expiry of Approval.

An approval expires three years after the date of issue, unless extension is granted or permitted in writing, on reasonable grounds, by the Director.

20. Confidentiality

(1) Any documents and information acquired whether by Regulation or requirement of the Director, by the Ministry in the process of application and any other sections in this Act, are confidential except where disclosure is—

- (a) necessary for the performance of functions under this Act, or
- (b) by consent of the approved provider or person identified in the information, or
- (c) by order of the court.

(2) Disclosure of a list of the names of approved providers and approved premises is not a breach of confidentiality under this Act.

21. Subject to section 20 any person who discloses documents and information acquired by the Ministry, commits an offence and shall be liable to a fine not exceeding \$1000 or imprisonment for a period not exceeding 6 months, or both.

Division 3 - REFUSAL

22. Refused Application

The Director may refuse an application if satisfied, on reasonable grounds that—

(1) an applicant, as an individual service provider and everyone involved in the case of body corporate service providers, does not comply with —

- (a) sections 5 to 7 in the case of ECCE service,
- (b) sections 8 to 10 in the case of preschool service,
- (c) sections 11 and 12, or
- (d) a compliance notice issued under section 14.

(2) the prescribed or required documents and information, are not produced, complete or true,

(3) the application and prescribed or required document and information, are not submitted within 14 working days for services in South Tarawa or 28 working days for any other applicants or any other permitted period granted by the Director, or

(4) any other reasons that the Director may think fit to refuse the application.

23. Director's Refusal

(1) The Director must—

- (a) issue a refusal in writing to an applicant, and
- (b) states all the grounds for the refusal.

(2) The decision for refusal must be issued within 30 working days or any other reasonable period required for the process and completion of the decision by the Director, to an applicant concerned.

Division 4 – SUSPENSION, VARIATION AND REVOCATION

24. Suspension

(1) The Director may suspend the provision and operation of a service if satisfied, on reasonable grounds that the approved provider-

(a) has or is likely to deviate from the qualification and requirements on which the approval granted under section 13 or 14 was issued,

(b) has or is likely to deviate from its duties under this Act, or

(c) any other reasons that the Director may think fit to suspend the service.

(2) A direction for suspension must be issued by the Director in writing, stating-

(a) the grounds for suspension,

(b) a period of the suspension,

(c) where it fits, a compliance notice.

25. Where a direction was issued with a compliance notice under section 24(2)(c), the suspended provider is permitted a compliance period of 30 working days for services in South Tarawa or 60 working days for any other applicants, or any other permitted period granted by the Director otherwise the provider will be revoked under section 33.

26.(1) The suspension period as stated in the Director's direction under section 24 is extended under section 25 and expires when the Director is satisfied that the approved provider has complied with the compliance notice issued under section 24(2)(c).

(2) Upon expiry of the suspension period, an approved provider may continue the provision and operation of its services and the validity period continues immediately after the expiry date of the suspension.

27. Variation

An approval may be varied by direction of the Director or upon application of an approved provider.

28. Variation by the Director

(1) The Director may vary the approved service, if satisfied upon reasonable grounds, that-

(a) the approved provider is providing or operating a service that is different from the approved service.

(b) the premise where the approved provider operates, is different from the approved premise,
or

(c) any associated equipment and infrastructure under section 12(1) or 12(2) is different from the disclosed and approved equipment and infrastructure.

(2) The variation under subsection (1) must be issued in a written direction by the Director.

(3) The approved provider who was issued with a direction for variation is permitted a variation period of 30 working days for services in South Tarawa or 60 working days for any other applicants or any other permitted period granted by the Director.

29. Non-compliance with the direction for variation

(1) The Director must issue a compliance notice where the approved provider fails to comply with a direction for variation under section 28(2) or a variation period under section 28(3).

(2) The compliance notice under this section, will-

(a) suspend the approved service,

(b) issue new conditions where the Director thinks fit to facilitate compliance of the direction,
and

(c) issue a period of suspension.

(3) In this section, the approved provider is permitted a compliance period of 14 working days for services in South Tarawa or 28 working days for any other services or any other permitted period granted by the Director.

(4) The approved provider may continue the provision and operation of its approved service during the periods of variation and compliance of a direction for variation, or any other permitted periods granted by the Director, unless the approved provider is suspended for non-compliance of the direction.

30. Variation upon application of an approved provider.

(1) The Director may vary the approved service upon application of an approved provider.

(2) An application to vary-

(a) must be made in the prescribed form, and

(b) include the prescribed fee.

(3) The Director may-

(a) refuse the application for variation if satisfied that the proposed variation is in effect a new application, or

(b) issue a written direction for additional variation where the Director thinks fit.

31. The approved provider who was issued with a direction for additional variation is permitted a variation period of 30 working days for services in South Tarawa or 60 working days for any other services or any other permitted period granted by the Director.

32. Non-compliance with a direction for additional variation

(1) The Director must issue a compliance notice where the approved provider fails to comply with a direction for additional variation under section 30(3)(b).

(2) The compliance notice under this section, will-

(a) suspend the approved service,

(b) issue new conditions where the Director thinks fit to facilitate compliance of the direction, and

(c) issue a period of suspension.

(3) In this section, the approved provider is permitted a compliance period of 14 working days for services in South Tarawa or 28 working days for any other services or any other permitted period granted by the Director.

(4) The approved provider may continue the operation and provision of its approved service during the periods of variation and compliance of a direction for additional variation periods, or any other periods granted by the Director, unless the approved provider is suspended for non-compliance of the direction.

33. Revocation

(1) The Director may revoke the approved service and premise if satisfied that the approved provider-

(a) breaches, fails or refuses to observe without reasonable cause, his or her duties under this Act,

(b) fails to comply without reasonable cause, with any compliance notice issued by the Director under this Act,

(c) commits an offence under sections 48 and 58 to 61,

(d) commits any offence under any other Acts, that threatens the health, safety and welfare of a child.

(2) The Director must issue a notice for revocation to the approved provider.

(3) The revoked provider must cease its provision and operation of services to a child immediately after the date of the issue of the notice for revocation under this section.

34. Surrender of certificate

(1) A certificate must be surrendered to the Director, where the approved provider, in the duration of the approval -

- (a) ceases to provide or operate the approved service, or
- (b) is suspended under section 24 or
- (c) varied under sections 28 or 30, or
- (d) revoked under section 33.

(2) The Director must –

(a) in the case of suspension, return the original certificate and approval immediately to the provider upon the expiry of the suspension period,

(b) in the case of variation, return the original certificate and approval immediately to the provider after the variation is complete.

Division 5 – REVIEWS AND APPEALS

35. Application for review

Any aggrieved person or provider may apply for review of the Director's decision in respect of divisions 1 to 4 and 6 of part II of this Act.

36. An application for review must be-

(1) in the prescribed form and include any information which the applicant believes relevant to support the application,

(2) made within the period of 14 working days for applicants in South Tarawa or 28 days for any other applicants, after the date of the issue of the Director's decision concerned,

(3) addressed to the Minister with a written notice copied to the Director.

37. A review panel

(1) A review panel is set up under this Act to consider any application for review received under section 35.

(2) The review panel must consist of –

(a) the Secretary of the Ministry as chair,

(b) a Secretary of a Ministry responsible for children and social welfare as member,

(c) a Secretary of a Ministry responsible for health and medical services as member,

(d) the Attorney-General as member, and

(e) any other Secretary of any other Ministry that is relevant to the issue of early childhood education and care.

(3) Apart from the chair, any Secretary or the Attorney-General, may delegate another officer within their Ministry or Office as the case may be, to sit in the review panel.

38. Procedure of the Review panel

(1) The panel must-

- (a) receive applications for review from the Minister,
- (b) issue an instruction for the Director to supply a written report and produce documents and any information concerning the application,
- (c) require documents or oral submission from relevant persons where the panel thinks fit for the facilitation of the review, and
- (d) advise the Minister on the outcome of the review.

(2) Subject to the objects and principles of this Act, the panel may determine its own procedure for the performance of its duties under subsection (1).

39. Power of the Minister to confirm or vary the Director's decision.

(1) Upon receiving an application for review, the Minister must convene the review panel and handover the application to the review panel.

(2) The Minister may vary or confirm the decision upon the advice of the review panel.

(3) Where the decision is varied by the Minister,

(a) a new approval must be issued by certificate to the applicant, and

(b) the Minister must issue a written direction to the Director to issue the new certificate.

(4) Any person aggrieved by the decision of the Minister under this Act, may make an appeal to the court, within 30 working days or any other period granted with leave of the court.

40. Review period

The review panel must carry out the review within –

(1) 14 working days of the date of receipt of the application for review by the Minister, or

(2) any other period that the review panel thinks fit for the review to process or complete.

Division 6 –DEEMED PROVIDER AND PREMISE

41. Approval for deemed provider and premise

(1) Any person who, immediately before the commencement of this Act, was providing an ECCE or preschool service to a child is deemed to be an approved provider under this Act.

(2) Any premise, other than a hospital or residence, where a person deemed to be an approved provider under subsection (1) operates, is deemed to be an approved premise under this Act.

42. The period of approval of a deemed provider and premise

Following the commencement of this Act-

(1) a deemed provider must-

(a) be allowed to continue providing and operating an ECCE or preschool service to a child and uses the premise and associated equipment and infrastructure where the service operates, for 12 months,

(b) make a new application for approval to provide and operate an ECCE or preschool service to a child, within 2 months.

(2) Non-compliance with the application period under subsection (1) renders the deemed service expired on the date immediately after the expiry of 12 months.

(3) Where a deemed operator has applied for registration in accordance with this Act on or before the last date for application, and the application is granted under this Act, the deemed registration expires on the date on which the application is so granted.

(4) Where a deemed operator has applied for registration in accordance with this Act on or before the last date for application, but the application is refused, the deemed registration expires on the date immediately after the expiry of 12 months.

43. Suspension, variation or revocation of a deemed provider.

A deemed provider may be suspended, varied or revoked by the Director, within the period that they provide and operate an ECCE or preschool service as a deemed service provider, in accordance with this Act.

PART III – DUTIES

Division 1 – Duties of parents

44. Any parent must-

(1) immediately notify an ECCE provider or preschool teacher if aware that a child has contagious disease or food allergy,

(2) complies with an advice of an ECCE provider or preschool teacher if the provider advises that the parent's child is ill and need to remain at home until the child recovers,

(3) report to the ECCE provider or preschool teacher if the child is sick and cannot attend the service and produce a medical certificate to prove the need for the child's absence.

45. Any parent who does not comply with section 44(1) and (2) commits an offence and shall be liable to a fine not exceeding \$500.

Division 2 – Duties of approved provider.

46. Any approved provider must-

- (1) comply with all the qualification, requirements or conditions prescribed or issued as the Director thinks fit;
- (2) provide an equal and fair ECCE or preschool service to every child that enrolled or attends the service,
- (3) ensure that the approved premises and associated equipment and infrastructure meet the standard prescribed or issued as the Director thinks fit;
- (4) keep the prescribed records for the prescribed period of provision and operation of the service in the prescribed form and disclosed them for inspection where required;
- (5) issue prescribed reports or information returns in the prescribed form when required;
- (6) apply for variation if there is substantial change to the approved service, premise or associated equipment and infrastructure,
- (7) comply with the objects and principles of this Act,
- (8) comply with any other prescribed duties.

47. A child living with disabilities

Any approved provider may be permitted to refuse service to a child with disability in the case where the approved provider, after taking any necessary steps to find means of accommodating the special needs of the child in the service, the approved provider, premise or associated equipment and infrastructure cannot reasonably cater for the special needs of the child.

48. Disciplinary and punishment by the approved provider

(1) Any approved provider must not-

- (a) disrespect, degrade, exploit, intimidate, or emotionally or physically harm or neglect a child who enrolls or attends the approved service,
- (b) harass or use corporal punishment to discipline or punish a child who enrolls or attends the approved service.

(2) Non-compliance with subsection (1) is a ground for revocation of the approved service.

(3) Any ECCE, preschool provider or staff engaged or employed in the service, who harasses or uses corporal punishment to a child commits an offence and shall be liable to a fine not exceeding \$1000.

49. School committees

Anybody corporate ECCE or preschool provider must set up a school committee in accordance with the prescribed regulations for the membership, functions, rules of procedures and any other matter concerning the committee.

Division 3 – Other general duties and powers

50. The Director

The Director must develop a national early childhood education standard that may include-

- (1) a program for ECCE and preschool services in respect of the provision and operation of early childhood education activities,
- (2) an annual calendar setting out the days on which ECCE and preschool services must provide and operate early childhood education services,
- (3) an assessment and reporting strategy on the performance of early childhood education activities,
- (4) a monitoring and evaluation program,
- (5) any other standard that may be prescribed or required to improve the provision and operation of early childhood education at the national and local government levels.

51. Any duties of the Director under divisions 1 to 4 and 6 of part II of this Act may be delegated to an officer of the Ministry when the Director-

- (1) is on official leave or absence,
- (2) has a conflict of interest in the application or any other matters concerning the provider or service,
- (3) any other circumstances that renders the Director's involvement in the matter unnecessary or improper.

52. The Secretary

The Secretary must-

- (1) provide coordination role to the Director,
- (2) confirm the delegation of the Director's duties to any officer of the Ministry,
- (3) convey any advice of the review panel issued under section 38 to the Minister,
- (4) approve a national early childhood education standard developed under section 50.
- (5) any other duties required within the objects and principles of this Act.

53. The Minister

The Minister has the powers to-

- (1) appoint an ECCE inspector under section 54,
- (2) subject to the advice of the review panel; confirm or vary the Director's decision issued under divisions 1 to 4 and 6 of part II of this Act,
- (3) by order, amends the schedule specifying the minimum standard qualification for preschool teachers and the minimum standard requirements for premises, and
- (4) make regulations on any matters required under this Act.

54. ECCE Inspectors

The Minister may-

- (1) subject to section 99 of the Constitution and section 2 of the Public Service Commission (Functions) Act 1983, appoint such persons as ECCE inspectors as he or she considers necessary for the proper carrying out of the provisions of this Act, or
- (2) designate any other suitably qualified officers in the Ministry as ECCE inspectors.

55. An ECCE inspector must-

- (1) interviews or dialogues with approved providers on matters concerning the operation and provision of ECCE or preschool services to a child,
- (2) enters and inspects approved premises to review the standard and conditions of the approved premises,
- (3) monitors the progress and development of approved providers and premises including deemed approved providers and premises,
- (4) reviews and monitors any approved provider's compliance with any compliance notice or direction issued under this Act,
- (5) issues written reports acquired during the inspector's duties under subsections (1) to (4),
- (6) carry out any other duties prescribed or issued by the Director or Secretary for the performance of the inspector's duties under this Act.

56. Police assistance

The Director or ECCE inspector exercising authority to inspect the approved provider or premise or any other authority under this Act may, where necessary, call for assistance of a police officer.

57. Advisory council on early childhood education

- (1) An advisory council on early childhood education is established under this Act to advise the Minister on policy issues and matters concerning ECCE or preschool services under this Act or any other matters referred to it by the Minister.

(2) Regulations may subject to the objects and principles of this Act, provide for-

- (a) the terms of reference of the Advisory council,
- (b) the composition of the Advisory council,
- (c) the appointment of members,
- (d) the terms of office of members,
- (e) the rules of procedures,
- (f) the establishment of sub-committees,
- (g) the payment of sitting allowances to members of the Advisory council or any sub-committee established.

PART IV – MISCELLANEOUS

General Offences

58. Offences on approved premises

(1) Any person who behaves in an offensive or disorderly manner on any approved premises commits an offence and shall be liable to a fine at the minimum of \$500 but not exceeding \$1000.

(2) Any person who is directed to leave the premises by an approved provider or a police officer, and fails to leave the premises as directed, commits an offence and shall be liable to a fine at the minimum of \$500 but not exceeding \$1000.

(3) Any person who is not an approved provider, staff or parent and family of a child enrolled in an ECCE or preschool service, who trespasses on an approved premise of the service concerned, commits an offence and shall be liable to fine at the minimum of \$100 but not exceeding \$500.

(4) Any person who sells a product containing alcohol, tobacco, kouben, kava or any other prescribed item or substance on an approved premise, commits an offence and shall be liable to a fine at the minimum of \$500 but not exceeding \$1000.

59. Misleading information

Any person who gives any required information or documents knowing such to be misleading, false or deceptive, commits an offence and shall be liable to a fine not exceeding \$2000 or imprisonment for a period not exceeding 12 months, or both.

60. Failure to give information

Any person who fails or refuses to give information prescribed or required under this Act, commits an offence and shall be liable to a fine at the minimum of \$500 but not exceeding \$1000.

61. Obstruction of officials

Any person who obstruct the Director, ECCE inspector or any other officer in the execution of his or her duties under this Act, commits an offence and shall be liable to a fine not exceeding \$1000 or imprisonment for a period not exceeding 6 months, or both.

Offences and Proceedings

62. Liability of an individual and the body corporate provider

Where a body corporate or principal provider is guilty of an offence under this Act, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any ECCE provider, child-minder, teacher or staff, that individual ECCE provider, child-minder, teacher, staff as well as the principal provider, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Regulations

63. The Minister, acting in accordance with the advice of the Cabinet may-

(1) make regulations prescribing matters that require prescribing under this Act or that are necessary to give effect to the objects and principles of this Act,

(2) without limiting subsection (1), make regulations to prescribe –

(a) any additional or improved qualifications standards and criteria for an ECCE provider and a teacher in respect of the provision and operation of preschool service,

(b) any additional or improved standards requirements and criteria for an approved premise and associated equipment and infrastructure for ECCE and preschool services,

(c) any additional duties of approved service providers,

(d) the rules for the operation of a scheme to provide support for children in financial need in accordance with the prescribed compulsory preschool education,

(e) the eligibility criteria or requirements for admission to an ECCE or preschool service,

(f) the rules for the conduct of any examination at an ECCE or preschool service; and

(g) the criteria for the award of any certificate to a child upon completion of a specified preschool educational standard, provided that completion of this standard is not a prerequisite for enrolment or attendance at a preschool service.

(3) make transitional regulations for matters that are-

(a) necessary to achieve the transition from the situation prior to, and the situation after, the commencement of this Act, and

(b) required or necessary to give effect to the transition towards complying with the objects and principles of this Act.

(4) A transitional regulation under subsection (3) may-

(a) have retrospective operation to a date not earlier than the commencement of this Act and expires 12 months after the commencement date of that regulation, and

(b) to the extent, a transitional regulation has retrospective operation, it must not operate to the disadvantage of a person (other than the Republic) by detrimentally affecting the person's rights or imposing liabilities on the person.

SCHEDULE

(Part II)

1. Minimum Standard Qualification for preschool teachers

(a) a certificate from any accredited institution or recognized church or community preschool teacher training, or an experience in teaching at a preschool level, for at least 3 years,

(b) a certificate showing a qualification or knowledge of basic first aid skills.

2. Minimum Standard Requirements for premise and associated equipment and infrastructure

(a) The premise must be complete with toilet and washing facilities to provide clean and hygienic sanitation for children,

(b) The premise vicinity and associated equipment and infrastructure must be smoke and alcohol free,

(c) The structural design and size for any classroom, restroom or other program space must be big enough for children to learn and move about in,

(d) Where a premise consists of an open building or mwaneaba and located close to the sea or public road; the premise must be fenced and gated to prevent children from moving out of sight and sound from the service provider or staff,

(e) Where a premise consists of a closed building, the structural design must not interfere with teacher's ability to observe children. Where there is a playground, service providers and staff members must be able to supervise the children and prevent them from moving out of sight and sound from the service provider or staff,

(f) Associated equipment and infrastructure must –

(i) for the premises, have basic fire extinguisher equipment and first aid kits ready,

(ii) for teaching aids, be made of wood or rubber,

(iii) for playing equipment or tools such as sandpits, swings or slides, be at an appropriate height, level and size for children,

(iv) for transport, be accessible or reachable and safe for the transportation of children, to and from the service or to any other destination that they require transportation to,

(v) for services providing meals to children, have a license to cater and provide meals from a ministry responsible for health. The service's kitchen must be clean all the time and any cook or staff in charge of preparation of the meals must have a medical clearance to be fit and healthy to perform his or her duties.

EARLY CHILDHOOD CARE AND EDUCATION ACT 2017

EXPLANATORY MEMORANDUM

This Act sets up a framework for the regulation of Early Childhood Care and Education (ECCE) and preschool services to children of 3 to under 6 years old; establishes a registration and compliance mechanism for the provision and the requirements for the operation of the services and facilitates and supports the ECCE and preschool programs and services at the national and local government levels.

There are 4 parts of this Act; Part I (preliminary), Part II (procedures), Part III (Duties) and Part IV (Miscellaneous).

Part I sets out the procedures for application, approval, refusal and suspension, variation and revocation of ECCE and preschool services. The application procedure sets out how service providers could make and submit their application, The approval procedure sets out how the application would be considered and approved by providing the minimum standard qualification for preschool teachers and the minimum standard requirements for premises and associated equipment and infrastructure and any other requirements that may be prescribed or imposed where it fits; in order for a service provider to be granted approval to provide and operate the service to children. The refusal procedure follows the approval procedure by reinforcing the qualifications, requirements and conditions that an applicant need to satisfy and comply before it could be given an approval to commence its operation. As a fourth, the suspension, variation or revocation procedure set out the situation when an approved ECCE or preschool service provider could be temporarily or permanently, depending on their circumstances; ceased of their approval during the period of operation of the service, in respect of the premises or associated equipment and infrastructure that they have been granted approval for. A Director is highlighted as the key person to give decision in respect of the application, approval, refusal, suspension, variation and revocation but there is provision for reviews of his/her decision later in the Act. This part recognizes that a service provider may be an individual or a body corporate and the procedures reflects the different status and capacity of these different service providers. This part also gives recognition and approval to existing ECCE and preschool providers and their premise, equipment and infrastructure as deemed providers and premises. As current service providers; they are allowed to operate within 12 months after the commencement of this Act but are required to apply for a new approval to operate within 2 months after the commencement.

Part III sets out the duties of parents, approved service providers and any other general duties of the Director as well as the Secretary, the Minister and other appointed officers (ECCE inspector) and established bodies (Review Panel, Advisory Council and School Committees). This part also recognizes the need of police assistance in carrying out inspection of service providers and their premises, equipment and infrastructure where service providers resist or prevent the Director or inspectors from inspecting them or their services and vicinities. This part provides specific penalties for breach or failure to perform duties. For parents, they commit an offence if they do not notify the service provider of their child's contagious disease or food allergy and if they do not comply with the service provider's advice to keep their sick child at home. For service providers, they must not discriminate children and they must enroll children with disabilities

where their capacity as well as their premises, equipment and infrastructure is able to accommodate the special needs of children with disabilities. Although the Director is the frontline officer, his/her duties may be delegated to another officer in the Ministry when he/she is absent or his/her involvement is a conflict of interest or it is improper. The Secretary has a coordination role in the implementation of the Act and also chairs the Review Panel, which is set up to hear and consider grievances against the Director's decision on the application, approval, refusal, suspension, variation or suspension processes (Part II). The Minister has the overarching role of issuing the decision for review in accordance with the recommendation of the review panel, the appointment of ECCE inspectors and the making of regulations required under this Act. The highest review avenue in the circumstance where there is grievances against the Minister's decision; is provided as an appeal to the Magistrate or High Court as both courts has a jurisdiction in this Act.

Part IV sets out the general offences of misleading information, failure to give information and obstruction of officials. These offences are directed at the service providers and premises, equipment and infrastructure and this Act addresses these offences by imposing penalties to the service provider concerned as an individual as well as a body corporate. This part outlines the general context for the regulation that the Minister has a power to make; in accordance with Cabinet's advice. These regulations are for the provision and regulation of ECCE and preschool services and the transitional periods required for deemed providers and premises and any other situation that exist immediately before the commencement of this Act.

HON. ALEXANDER TEABO
MINISTER OF EDUCATION

LEGAL REPORT

I hereby certify that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act

TETIRO MAATE SEMILOTA
ATTORNEY-GENERAL

**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

This printed impression of the Early Childhood Care and Education Act 2017 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 14th August 2017 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this ¹¹..... day of
^{October}..... 2017.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu